

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

HARTFORD LIFE AND ACCIDENT
INSURANCE COMPANY,

Plaintiff, : Case No. 3:09-cv-293

- vs -

Magistrate Judge Michael R. Merz

ALICE JANE DILLABAUGH, et al.,

Defendants. :

**DECISION AND ORDER GRANTING DEFENDANT DILLABAUGH'S MOTION IN
LIMINE TO EXCLUDE EVIDENCE REGARDING USE OF INSURANCE PROCEEDS**

This case is before the Court on Defendant Alice Jane Dillabaugh's Motion in Limine to Exclude Evidence Regarding Use of Insurance Proceeds (Doc. No. 52). The Court has considered the Motion, Plaintiff Hartford's Opposition (Doc. No. 71), and Mrs. Dillabaugh's Reply (Doc. No. 76).

The Court agrees with Mrs. Dillabaugh that her use of the proceeds received from other insurance policies on Mr. Dillabaugh's life and any possible uses to which she might put the proceeds of the policies in suit is irrelevant to the issues to be decided by the jury and possibly also prejudicial.

The Court also agrees with The Hartford that the jury might misinterpret the portions of letters written by Roy Dillabaugh to Mrs. Dillabaugh instructing her on how she should use the

proceeds. If those letters are introduced in evidence¹, any possible misinterpretation can be cured by an instruction from the Court. Counsel should attempt to agree on an instruction to be given under those circumstances or submit separate proposals for instructions at the time they submit their package of proposed jury instructions (due at or before the time of the final pretrial conference on Monday, November 29, 2010.)

November 26, 2010.

s/ **Michael R. Merz**
United States Magistrate Judge

¹The Court called Mr. Sharkey on the morning of November 26, 2010, noting the absence of exhibit lists from the filed Joint Proposed Final Pretrial Order. At the time of the filing of this Decision, the Court has still not seen those lists.